



February 22, 2005

HOUSE BILL No. 1226

DIGEST OF HB 1226 (Updated February 17, 2005 3:23 pm - DI 75)

Citations Affected: IC 3-5; IC 3-6; IC 3-8; IC 3-10; IC 9-13; IC 12-7; IC 16-18; IC 20-3; IC 20-4; IC 36-2; IC 36-3; IC 36-4; IC 36-5; IC 36-6.

Synopsis: Various election law matters. Provides that a person may not file election related documents by fax or electronic transmission unless specifically permitted or required by law. Makes other changes relating to filing election related documents. Provides that the deadline to withdraw as a primary election candidate does not apply to a candidate who is disqualified. Provides that a candidate who moves from the election district must file a notice of withdrawal immediately after the candidate's residence changes. Provides an expedited procedure for removal of the name of an alleged disqualified candidate from the general election ballot. Provides that if the expedited procedure does not conclude by noon 30 days before the general election, the alleged disqualified candidate's name must remain on the ballot. Provides in such a case that if the alleged disqualified candidate wins the election and is disqualified, it is considered that a qualified candidate of the same political party was elected and that a vacancy occurred in the office after the election. Removes obsolete date references and updates other references. Updates references to federal law.

Effective: Upon passage; July 1, 2005.

Richardson, Mahern, Thomas

January 6, 2005, read first time and referred to Committee on Elections and Apportionment.
February 21, 2005, amended, reported — Do Pass.

HB 1226—LS 7295/DI 75+



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February 22, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1226

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-5-4-1.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 1.7. Except as otherwise expressly authorized or**
4 **required under this title, a filing by a person with a commission,**
5 **the election division, or an election board may not be made by fax**
6 **or electronic mail.**

7 SECTION 2. IC 3-5-4-7 IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2005]: Sec. 7. Except as otherwise provided in
9 this title, a reference to a federal statute or regulation in this title is a
10 reference to the statute or regulation as in effect January 1, ~~2003~~; **2005**.

11 SECTION 3. IC 3-5-4-9 IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) This section applies **after**
13 ~~December 31, 2003~~, whenever the individual who holds the office of
14 circuit court clerk is a candidate on the ballot for any office.

15 (b) As used in this section, "ballot" refers to an absentee ballot, a
16 ballot card, or any other form of ballot.

17 (c) Notwithstanding any law requiring the name or signature of the

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1 circuit court clerk to appear on a ballot for authentication or any other
 2 purpose, the name or signature of the individual who is circuit court
 3 clerk may not appear on the ballot except to indicate that the individual
 4 is a candidate for an office.

5 (d) The circuit court clerk shall substitute a uniform device or
 6 symbol prescribed by the commission for the circuit court clerk's
 7 printed name or signature to authenticate a ballot.

8 SECTION 4. IC 3-5-8-2 IS AMENDED TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2005]: Sec. 2. ~~(a)~~ The statement required by
 10 section 1 of this chapter must contain the following:

11 (1) A statement of the qualifications that an individual must meet
 12 to vote in Indiana, including qualifications relating to registration.

13 (2) A statement describing the circumstances that permit a voter
 14 who has moved from the precinct where the voter is registered to
 15 return to that precinct to vote.

16 (3) A statement that an individual who meets the qualifications
 17 and circumstances listed in subdivisions (1) and (2) may vote in
 18 the election.

19 (4) A statement describing how a voter who is challenged at the
 20 polls may be permitted to vote.

21 (5) The date of the election and the hours during which the polls
 22 will be open, as required by 42 U.S.C. 15482.

23 (6) Instructions on how to vote, including how to cast a vote and
 24 how to cast a provisional ballot, as required by 42 U.S.C. 15482.

25 (7) Instructions for mail-in registrants and first time voters under
 26 IC 3-7-33-4.5 and 42 U.S.C. 15483, as required under 42 U.S.C.
 27 15482.

28 (8) General information on voting rights under applicable federal
 29 and state laws, including the right of an individual to cast a
 30 provisional ballot and instructions on how to contact the
 31 appropriate officials if these rights are alleged to have been
 32 violated, as required under 42 U.S.C. 15482.

33 (9) General information on federal and state laws regarding
 34 prohibitions on acts of fraud and misrepresentation, as required
 35 under 42 U.S.C. 15482.

36 (10) A statement informing the voter what assistance is available
 37 to assist the voter at the polls.

38 (11) A statement informing the voter what circumstances will
 39 spoil the voter's ballot and the procedures available for the voter
 40 to request a new ballot.

41 (12) A statement describing which voters will be permitted to
 42 vote at the closing of the polls.

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(13) Other information that the commission considers important for a voter to know.

~~(b) The voter's bill of rights is not required to contain the information described in subsection (a)(5); (a)(6); (a)(7); (a)(8); and (a)(9) before January 1, 2004.~~

SECTION 5. IC 3-5-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) As required by 42 U.S.C. 15483, ~~and after December 31, 2003~~, the precinct election board shall post the voter's bill of rights in a public place in each polling place on election day.

(b) The commission may require a copy of the voter's bill of rights to be distributed with voter registration materials or other materials that are given to voters.

SECTION 6. IC 3-6-5.2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. ~~(a) As used in this section, before July 1, 1999, "board" refers to the combined county election board and board of registration.~~

~~(b)~~ The board may, by a vote of a majority of the members of the board, hire attorneys to provide legal services for the board, as determined by the board.

SECTION 7. IC 3-8-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A declaration of candidacy for a primary election must be filed ~~no~~ **not** later than noon seventy-four (74) days and ~~no~~ **not** earlier than one hundred four (104) days before the primary election. The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(b) A declaration of intent to be a write-in candidate must be filed:

(1) not earlier than the first date specified under IC 3-8-6-10(b) to file a petition of nomination; and

(2) not later than noon on the date specified by IC 3-13-1-15(c) for a major political party to file a certificate of candidate selection.

The declaration must be subscribed and sworn to before a person authorized to administer oaths.

(c) During a year in which a federal decennial census, federal special census, special tabulation, or corrected population count becomes effective under IC 1-1-3.5, a declaration of:

(1) candidacy may be filed for an office that will appear on the primary election ballot; or

(2) intent to be a write-in candidate for an office that will appear on the general, municipal, or school board election ballot;

that year as a result of the new tabulation of population or corrected

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population count.

SECTION 8. IC 3-8-2-11 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2005]: Sec. 11. (a) A declaration of candidacy
may be made by mail and is considered filed as of the date and hour it
is received **the filing occurs in the manner described by**
IC 3-5-2-24.5 in the office of the election division or circuit court
clerk.

~~(b)~~ A declaration of candidacy may not be made by telegraph or
facsimile transmission.

~~(c)~~ **(b)** A declaration is not valid unless received in the office of the
election division or circuit court clerk by noon on the seventy-fourth
day before a primary election.

~~(d)~~ **(c)** This subsection applies to a candidate required to file a
statement of economic interest under IC 2-2.1-3-2, IC 4-2-6-8, or
IC 33-23-11-15. An officer receiving a declaration may require
information supporting the eligibility of the candidate and, where
applicable, The election division shall require the candidate to produce
a:

(1) copy of the statement, file stamped by the office required
to receive the statement of economic interests; or

(2) receipt showing that ~~statements of economic interest or other~~
~~prerequisite filings have the statement has been made filed;~~

before the ~~officer~~ election division accepts the declaration for filing.
The election division shall reject a filing that does not comply with
this subsection.

SECTION 9. IC 3-8-2-20 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2005]: Sec. 20. (a) A person who files a
declaration of candidacy under this chapter may, at any time not later
than noon seventy-one (71) days before the date set for holding the
primary election, file a statement with the same office where the person
filed the declaration of candidacy, stating that the person is no longer
a candidate and does not wish the person's name to appear on the
primary election ballot as a candidate.

(b) A candidate who is disqualified from being a candidate
under IC 3-8-1-5 must file a notice of withdrawal immediately
upon becoming disqualified. The filing requirements of subsection
(a) do not apply to a notice of withdrawal filed under this
subsection.

(c) A candidate who has moved from the election district the
candidate sought to represent must file a notice of withdrawal
immediately after changing the candidate's residence. The filing
requirements of subsection (a) do not apply to a notice of

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withdrawal filed under this subsection.

SECTION 10. IC 3-8-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **(a)** Each circuit court clerk shall, not later than noon Monday after the day the primary election is held, send to the election division by certified mail or hand delivery **a statement consisting of** one (1) complete copy of all returns for presidential candidates. The clerk shall state the number of votes received by each candidate in each congressional district within the county.

(b) A statement described in subsection (a) may be sent by using the computerized list established under IC 3-7-26.3. A statement sent under this section complies with any requirement for the statement to be certified or sealed.

SECTION 11. IC 3-8-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section applies to each political party that elects delegates to the party's state convention at a primary election.

(b) Delegates to a state convention shall be chosen at the primary election conducted by the political party on the first Tuesday after the first Monday in May ~~2000~~ **2006** and every two (2) years thereafter. If provided in the rules of the state committee of the political party, delegates may be elected from delegate districts in each county.

(c) Not later than noon November 30 of the year preceding the year in which the state convention is to be conducted, the state chairman of a political party shall certify the following to the election division and to each county committee of the party:

(1) The number of delegates to be elected in each county.

(2) Whether the delegates are to be elected from districts or at large in each county.

(3) If a county is to elect delegates from districts, how many districts must be established in each county.

(d) The county committee shall establish any delegate districts required to be established under subsection (c) and file descriptions setting forth the district boundaries with the county election board not later than noon December 31 of the year preceding the year the state convention is to be conducted. If the county committee does not timely file district descriptions under this subsection, the county election board shall establish districts not later than the first day that a declaration of candidacy may be filed under IC 3-8-2-4, and apportion the delegates to be elected from each district in accordance with subsection (c).

SECTION 12. IC 3-8-7-11 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) Except as provided in subsection (f), if a political party has filed a statement with the election division (or any of its predecessors) that the device selected by the political party be used to designate the candidates of the political party on the ballot for all elections throughout the state, the device must be used until:

- (1) the device is changed in accordance with party rules; and
- (2) a statement concerning the use of the new device is filed with the election division.

(b) Except as provided in subsection (c), the device may be any appropriate symbol.

(c) A political party or an independent candidate may not use as a device:

- (1) a symbol that has previously been filed by a political party or candidate with the election division (or any of its predecessors);
- (2) the coat of arms or seal of the state or of the United States;
- (3) the national or state flag; or
- (4) any other emblem common to the people.

(d) Not later than noon, August 20, before each **general or municipal** election,

~~(1) the state chairman of each political party whose candidates are to be certified under this section; or~~

~~(2) an individual filing a petition of nomination for candidates to be certified under this section;~~

shall file with the election division shall provide each county election board with a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed so that ballots may be prepared using the best possible reproduction of the device.

(e) This subsection applies to a candidate or political party whose ~~name or device is~~ **not filed with the election division under subsection (a), and is** to be printed only on ballots ~~prepared by a county election board to identify candidates for election to a local office.~~ Not later than noon, August 20, the chairman of the political party or the petitioner of nomination shall file a camera-ready copy of the device under which the candidates of the political party or the petitioner are to be listed with the county election board of each county in which the name of the candidate or party will be placed on the ballot. The county election board shall provide the camera-ready copy of the device to the town election board of a town located wholly or partially within the county upon request by the town election board.

(f) If a copy of the device is not filed in accordance with subsection

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(d) (a) or (e), or unless a device is designated in accordance with section 26 or 27 of this chapter, the ~~election division~~, county election board or town election board is not required to use any device to designate the list of candidates.

SECTION 13. IC 3-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 8. Removal of Name from Ballot of a Candidate for Legislative or State Offices at a General Election for Disqualification or Withdrawal

Sec. 1. (a) This chapter applies only to a candidate for election to any of the following:

- (1) A legislative office.
- (2) A state office other than a judicial office.

(b) This chapter applies notwithstanding any other law relating to challenges to the qualifications of a candidate to be elected at a general election.

Sec. 2. A candidate may not be challenged under this chapter if all of the following apply:

- (1) The candidate's qualification was previously challenged under this chapter or other applicable law.
- (2) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.
- (3) The commission conducted a hearing on the challenge and made a final determination in favor of the candidate.

Sec. 3. (a) An individual who challenges the qualification of a candidate for election to an office must be a registered voter of the election district the candidate seeks to represent.

(b) A challenge under this chapter must be filed with the election division not later than forty (40) days before the date of the general election at which a candidate to the office is to be elected.

(c) The challenger must file a sworn statement with the election division:

- (1) questioning the qualification of a candidate to seek the office; and
- (2) setting forth the facts known to the voter concerning this question.

Sec. 4. The commission shall do the following not later than three (3) business days after the challenger's sworn statement is filed under section 3 of this chapter:

- (1) Meet to hear the challenge.
- (2) Conclude the hearing.

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1 **Sec. 5. (a) Not later than one (1) business day after concluding**
 2 **the hearing, the commission shall announce its determination of the**
 3 **matter.**

4 **(b) If the commission does not announce a determination on the**
 5 **matter as provided in subsection (a), the commission is considered**
 6 **to have:**

7 **(1) dismissed the challenge; and**

8 **(2) taken final action on the challenge.**

9 **Sec. 6. The candidate or the challenger may appeal any final**
 10 **action:**

11 **(1) taken by the commission; or**

12 **(2) that the commission is considered to have taken under**
 13 **section 5 of this chapter;**

14 **to the court of appeals for errors of law under the same terms,**
 15 **conditions, and standards that govern appeals in ordinary civil**
 16 **actions. An assignment of errors that the commission's final action**
 17 **is contrary to law is sufficient to present both the sufficiency of the**
 18 **facts found to sustain the commission's action and the sufficiency**
 19 **of the evidence to sustain the finding of facts upon which the**
 20 **commission's action was rendered.**

21 **Sec. 7. (a) Regardless of the status of a challenge before the**
 22 **commission or the court of appeals, on noon thirty (30) days before**
 23 **the general election the following apply:**

24 **(1) The challenge is terminated.**

25 **(2) The name of the challenged candidate may not be removed**
 26 **from the ballot.**

27 **(3) The name of another individual may not replace the name**
 28 **of the challenged candidate on the ballot.**

29 **(4) Any votes cast for the challenged candidate shall be**
 30 **canvassed, counted, and reported under the name of the**
 31 **challenged candidate.**

32 **(b) All of the following apply if a candidate attempts to**
 33 **withdraw as a candidate after noon thirty (30) days before the**
 34 **general election:**

35 **(1) The name of the candidate may not be removed from the**
 36 **ballot.**

37 **(2) The name of another individual may not replace the name**
 38 **of the candidate on the ballot.**

39 **(3) Any votes cast for the candidate shall be canvassed,**
 40 **counted, and reported under the name of the candidate.**

41 **Sec. 8. (a) This section applies if a candidate whose name**
 42 **remains on the ballot under section 7 of this chapter receives the**

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most votes in the general election among all candidates for the office.

(b) If, after the election, it is determined as provided by law that the individual was not qualified to be elected to the office, it shall be considered that:

(1) an eligible candidate of the same political party, if any, as the ineligible candidate had been elected; and

(2) a vacancy in the office occurred after the election.

(c) The vacancy in the office shall be filled as otherwise provided by law.

SECTION 14. IC 3-10-1-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. (a) Precinct committeemen shall be elected on the first Tuesday after the first Monday in May ~~2002~~ **2006** and every four (4) years thereafter.

(b) The rules of a political party may specify whether a precinct committeeman elected under subsection (a) continues to serve as a precinct committeeman after the boundaries of the precinct are changed by a precinct establishment order issued under IC 3-11-1.5.

SECTION 15. IC 3-10-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Electors for President and Vice-President of the United States shall be elected in ~~2000~~ **2008** and every four (4) years thereafter at a general election held in accordance with 3 U.S.C. 1.

SECTION 16. IC 3-10-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. United States Senators shall be elected at a general election held in accordance with 2 U.S.C. 1 and as follows:

(1) One (1) in ~~2000~~ **2006** and every six (6) years thereafter.

(2) One (1) in ~~2004~~ **2010** and every six (6) years thereafter.

SECTION 17. IC 3-10-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The following public officials shall be elected in ~~2000~~ **2008** and every four (4) years thereafter:

(1) Governor.

(2) Lieutenant governor.

(3) Attorney general.

(4) Superintendent of public instruction.

SECTION 18. IC 3-10-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The following public officials shall be elected in ~~2002~~ **2006** and every four (4) years thereafter:

(1) Secretary of state.

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(2) Auditor of state.

(3) Treasurer of state.

SECTION 19. IC 3-10-2-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. A prosecuting attorney shall be elected in each judicial circuit in ~~2002~~ 2006 and every four (4) years thereafter in accordance with Article 7, Section 16 of the Constitution of the State of Indiana.

SECTION 20. IC 3-10-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The names of the candidates of:

(1) a political party;

(2) a group of petitioners under IC 3-8-6; or

(3) a write-in candidate for the office of President or Vice

President of the United States under ~~IC 3-8-2-1.5~~; IC 3-8-2-2.5; for electors of President and Vice President of the United States may not be placed on the ballot.

(b) The names of the nominees for President and Vice President of the United States of each political party or group of petitioners shall be placed:

(1) in one (1) column on the ballot if paper ballots or a ballot card voting system is used;

(2) on one (1) ballot label in one (1) column or row if voting machines are used; or

(3) in a separate column on the ballot label if an electronic voting system is used.

(c) **The name of each ballot must permit a voter to cast a ballot for a write-in candidate for the office of President or Vice President of the United States shall be placed as in the manner provided under IC 3-11-2-6.**

SECTION 21. IC 3-10-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as otherwise provided in this chapter, a municipal primary election shall be held on the first Tuesday after the first Monday in May ~~2003~~ 2007 and every four (4) years thereafter.

(b) Each political party whose nominee received at least ten percent (10%) of the votes cast in the state for secretary of state at the last election shall nominate all candidates to be voted for at the municipal election to be held in November.

SECTION 22. IC 3-10-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982,

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SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter each political party shall, at the primary election in:

(1) May ~~2002~~ **2006** and every four (4) years thereafter; and

(2) May ~~2003~~ **2007** and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(a) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(b) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in:

(1) May ~~2002~~ **2006** and every four (4) years thereafter; and

(2) May ~~2004~~ **2008** and every four (4) years thereafter;

nominate candidates for the election to be held under section 6(b) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be conducted under this chapter.

(c) Notwithstanding section 2 of this chapter, in a town that adopted an ordinance under section 2.6 of this chapter each political party shall, at the primary election in May ~~2004~~ **2008** and every four (4) years thereafter, nominate candidates for the election to be held under section 6(c) of this chapter, unless a primary election is not required under section 4 of this chapter. The primary election shall be held under this chapter.

SECTION 23. IC 3-10-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under IC 18-3-1-16(b) (before its repeal on September 1, 1981), P.L.13-1982, SECTION 3 (before its expiration on January 1, 1988), or section 2.5 of this chapter shall:

(1) at the general election in November ~~2002~~ **2006** and every four (4) years thereafter; and

(2) at the municipal election in November ~~2003~~ **2007** and every four (4) years thereafter;

elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 following the election, as provided in IC 36-5-2-3. The election shall be conducted under this chapter.

(b) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall:

(1) at the general election in November ~~2002~~ **2006** and every four

(4) years thereafter; and

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(2) at the general election in November ~~2004~~ **2008** and every four (4) years thereafter; elect town council members for terms of four (4) years to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

(c) Notwithstanding section 5 of this chapter, a town that adopted an ordinance under section 2.6 of this chapter shall, at the general election in November ~~2004~~ **2008** and every four (4) years thereafter, elect a town clerk-treasurer and town court judge (if a town court has been established under IC 33-35-1-1) to those offices whose terms expire at noon January 1 of the following year. The election shall be conducted under this chapter.

SECTION 24. IC 9-13-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 25. IC 12-7-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 26. IC 16-18-1-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. Except as otherwise provided in this title, a reference in this title to a federal statute or regulation relating to the federal National Voter Registration Act of 1993 (42 U.S.C. 1973gg) is a reference to the statute or regulation as in effect January 1, ~~2000~~ **2005**.

SECTION 27. IC 20-3-21-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The members shall be elected as follows:

(1) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~2000~~ **2008** and every four (4) years thereafter.

(2) Three (3) of the members elected under section 3(b)(1) of this chapter shall be elected at the primary election to be held in ~~2002~~ **2006** and every four (4) years thereafter.

(3) The at-large member elected under section 3(b)(2) of this chapter shall be elected at the primary election to be held in ~~2004~~ **2008** and every four (4) years thereafter.

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1 SECTION 28. IC 20-3-22-9 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. The members shall
 3 be elected as follows:

4 (1) Three (3) of the members shall be elected at the primary
 5 election to be held in ~~2000~~ 2008 and every four (4) years
 6 thereafter.

7 (2) Two (2) of the members shall be elected at the primary
 8 election to be held in ~~2002~~ 2006 and every four (4) years
 9 thereafter.

10 SECTION 29. IC 20-4-3-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) In a community
 12 school corporation set up under IC 20-4-1 that has a population of more
 13 than seventy-five thousand (75,000) but less than ninety thousand
 14 (90,000), and that is the successor in interest to a school city having the
 15 same population, the governing body shall consist of a board of trustees
 16 of five (5) members elected in the manner provided in this chapter.

17 (b) At the ~~2000~~ 2008 primary election and at each primary election
 18 every four (4) years thereafter, there shall be elected in each school
 19 corporation covered by this chapter two (2) school trustees each of
 20 whom shall serve for four (4) years. The two (2) candidates for the
 21 office of school trustee receiving the highest number of votes at the
 22 election take office on July 1 next following the election.

23 (c) At the ~~2002~~ 2006 primary election and at each primary election
 24 every four (4) years thereafter, there shall be elected in each school city
 25 covered by this chapter three (3) school trustees each of whom shall
 26 serve for four (4) years. The three (3) candidates for the office of
 27 school trustee receiving the highest number of votes at the election take
 28 office on July 1 next following the election.

29 (d) The school trustees shall be elected at the times provided and
 30 shall succeed the retiring members in the order and manner as set forth
 31 in this section.

32 SECTION 30. IC 36-2-2-4 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This subsection
 34 does not apply to a county having a population of:

35 (1) more than four hundred thousand (400,000) but less than
 36 seven hundred thousand (700,000); or

37 (2) more than two hundred thousand (200,000) but less than three
 38 hundred thousand (300,000).

39 The executive shall divide the county into three (3) districts that are
 40 composed of contiguous territory and are reasonably compact. The
 41 district boundaries drawn by the executive must not cross precinct
 42 boundary lines and must divide townships only when a division is

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clearly necessary to accomplish redistricting under this section. If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). A county redistricting commission shall divide the county into three (3) single-member districts that comply with subsection (d). The commission is composed of:

- (1) the members of the Indiana election commission;
- (2) two (2) members of the senate selected by the president pro tempore, one (1) from each political party; and
- (3) two (2) members of the house of representatives selected by the speaker, one (1) from each political party.

The legislative members of the commission have no vote and may act only in an advisory capacity. A majority vote of the voting members is required for the commission to take action. The commission may meet as frequently as necessary to perform its duty under this subsection. The commission's members serve without additional compensation above that provided for them as members of the Indiana election commission, the senate, or the house of representatives.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The executive shall divide the county into three (3) single-member districts that comply with subsection (d).

(d) Single-member districts established under subsection (b) or (c) must:

- (1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);
- (2) contain, as nearly as is possible, equal population; and
- (3) not cross precinct lines.

(e) A division under subsection (a), (b), or (c) shall be made:

- (1) ~~in 2001 and every ten (10) years after that;~~ **during the year after a year a federal decennial census is conducted;** and
- (2) when the county adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 31. IC 36-2-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This subsection does not apply to a county having a population of:

- (1) more than four hundred thousand (400,000) but less than

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seven hundred thousand (700,000); or

(2) more than two hundred thousand (200,000) but less than three hundred thousand (300,000).

The county executive shall, by ordinance, divide the county into four (4) contiguous, single-member districts that comply with subsection (d). If necessary, the county auditor shall call a special meeting of the executive to establish or revise districts. One (1) member of the fiscal body shall be elected by the voters of each of the four (4) districts. Three (3) at-large members of the fiscal body shall be elected by the voters of the whole county.

(b) This subsection applies to a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000). The county redistricting commission established under IC 36-2-2-4 shall divide the county into seven (7) single-member districts that comply with subsection (d). One (1) member of the fiscal body shall be elected by the voters of each of these seven (7) single-member districts.

(c) This subsection applies to a county having a population of more than two hundred thousand (200,000) but less than three hundred thousand (300,000). The fiscal body shall divide the county into nine (9) single-member districts that comply with subsection (d). Three (3) of these districts must be contained within each of the three (3) districts established under IC 36-2-2-4(c). One (1) member of the fiscal body shall be elected by the voters of each of these nine (9) single-member districts.

(d) Single-member districts established under subsection (a), (b), or (c) must:

(1) be compact, subject only to natural boundary lines (such as railroads, major highways, rivers, creeks, parks, and major industrial complexes);

(2) not cross precinct boundary lines;

(3) contain, as nearly as possible, equal population; and

(4) include whole townships, except when a division is clearly necessary to accomplish redistricting under this section.

(e) A division under subsection (a), (b), or (c) shall be made:

(1) ~~in 2001 and every ten (10) years after that;~~ **during the year after a year a federal decennial census is conducted;** and

(2) when the county executive adopts an order declaring a county boundary to be changed under IC 36-2-1-2.

(f) A division under subsection (a), (b), or (c) may be made in any odd-numbered year not described in subsection (e).

SECTION 32. IC 36-3-4-3 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The city-county
 2 legislative body shall, by ordinance, divide the whole county into
 3 twenty-five (25) districts that:

4 (1) are compact, subject only to natural boundary lines (such as
 5 railroads, major highways, rivers, creeks, parks, and major
 6 industrial complexes);

7 (2) contain, as nearly as is possible, equal population; and

8 (3) do not cross precinct boundary lines.

9 This division shall be made ~~in 1992 and every ten (10) years after that,~~
 10 **during the second year after a year a federal decennial census is**
 11 **conducted** and may also be made at any other time, subject to
 12 IC 3-11-1.5-32.

13 (b) The legislative body is composed of twenty-five (25) members
 14 elected from the districts established under subsection (a) and four (4)
 15 members elected from an at-large district containing the whole county.

16 (c) Each voter of the county may vote for four (4) candidates for
 17 at-large membership and one (1) candidate from the district in which
 18 the voter resides. The four (4) at-large candidates receiving the most
 19 votes from the whole county and the district candidates receiving the
 20 most votes from their respective districts are elected to the legislative
 21 body.

22 (d) If the legislative body fails to make the division before the date
 23 prescribed by subsection (a) or the division is alleged to violate
 24 subsection (a) or other law, a taxpayer or registered voter of the county
 25 may petition the superior court of the county to hear and determine the
 26 matter. There may not be a change of venue from the court or from the
 27 county. The court sitting en banc may appoint a master to assist in its
 28 determination and may draw proper district boundaries if necessary. An
 29 appeal from the court's judgment must be taken within thirty (30) days,
 30 directly to the supreme court, in the same manner as appeals from other
 31 actions.

32 (e) An election of the legislative body held under the ordinance or
 33 court judgment determining districts that is in effect on the date of the
 34 election is valid, regardless of whether the ordinance or judgment is
 35 later determined to be invalid.

36 SECTION 33. IC 36-4-6-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) This section
 38 applies only to second class cities.

39 (b) The legislative body shall adopt an ordinance to divide the city
 40 into six (6) districts that:

41 (1) are composed of contiguous territory, except for territory that
 42 is not contiguous to any other part of the city;

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(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b) resides in one (1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line: **except:**

(1) **except** when following a precinct boundary line; or

(2) **unless** the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) shall be made: ~~in 2002, every ten (10) years after that;~~

(1) during the second year after a year a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) The legislative body is composed of six (6) members elected from the districts established under subsection (b) and three (3) at-large members.

(i) Each voter of the city may vote for three (3) candidates for

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at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(k) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

(l) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city not later than thirty (30) days after the ordinance is adopted.

SECTION 34. IC 36-4-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) This section applies to third class cities, except as provided by section 5 of this chapter.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into five (5) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one

(1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district

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whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line: ~~except:~~

(1) **except** when following a precinct boundary line; or

(2) **unless** the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made: ~~in 2002, every ten (10) years after that,~~

(1) during the second year after a year a federal decennial census is conducted; and

(2) when required to assign annexed territory to a district.

This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of five (5) members elected from the districts established under subsection (b) and two (2) at-large members.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into four (4) districts that:

(1) are composed of contiguous territory;

(2) are reasonably compact;

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(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (j) and three (3) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for three (3) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The three (3) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the city no later than thirty (30) days after the ordinance is adopted.

(n) If any territory in the city is not included in one (1) of the districts established under this section, the territory is included in the district that:

(1) is contiguous to that territory; and

(2) contains the least population of all districts contiguous to that territory.

(o) If any territory in the city is included in more than one (1) of the districts established under this section, the territory is included in the district that:

(1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;

(2) is contiguous to that territory; and

(3) contains the least population of all districts contiguous to that territory.

SECTION 35. IC 36-4-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) This section applies to third class cities having a population of less than ten thousand (10,000). The legislative body of such a city may, by ordinance adopted before September 1, 1982, decide to be governed by this section instead of section 4 of this chapter. If this ordinance is repealed after August 31, 1982, except as a part of a codification of ordinances that reenacts the ordinance under IC 36-1-5-6, then section 4 of this chapter again applies to the city. The clerk of the legislative body shall send a certified copy of any ordinance adopted under this

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subsection to the secretary of the county election board.

(b) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body shall adopt an ordinance to divide the city into four (4) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(c) The boundary of a city legislative body district may cross a precinct boundary line if:

(1) more than one (1) member of the legislative body elected from the districts established under subsection (b) or (j) resides in one

(1) precinct established under IC 3-11-1.5 after the most recent municipal election; and

(2) following the establishment of a legislative body district whose boundary crosses a precinct boundary line, not more than one (1) member of the legislative body elected from the districts resides within the same city legislative body district.

(d) The boundary of a city legislative body district may cross a precinct line if the districts would not otherwise contain, as nearly as is possible, equal population.

(e) A city legislative body district with a boundary described by subsection (c) or (d) may not cross a census block boundary line: **except:**

(1) **except** when following a precinct boundary line; or

(2) **unless** the city legislative body certifies in the ordinance that the census block has no population, and is not likely to ever have population.

(f) The legislative body may not adopt an ordinance dividing the city into districts with boundaries described by subsection (c) or (d) unless the clerk of the city mails a written notice to the circuit court clerk. The notice must:

(1) state that the legislative body is considering the adoption of an ordinance described by this subsection; and

(2) be mailed not later than ten (10) days before the legislative body adopts the ordinance.

(g) The division under subsection (b) or (j) shall be made: ~~in 2002;~~ **every ten (10) years after that;**

(1) **during the second year after a year a federal decennial census is conducted;** and

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(2) when required to assign annexed territory to a district.
This division may be made at any other time, subject to IC 3-11-1.5-32.

(h) This subsection does not apply to a city with an ordinance described by subsection (j). The legislative body is composed of four (4) members elected from the districts established under subsection (b) and one (1) at-large member.

(i) This subsection does not apply to a city with an ordinance described by subsection (j). Each voter may vote for one (1) candidate for at-large membership and one (1) candidate from the district in which the voter resides. The at-large candidate receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(j) A city may adopt an ordinance under this subsection to divide the city into three (3) districts that:

(1) are composed of contiguous territory, except for territory that is not contiguous to any other part of the city;

(2) are reasonably compact;

(3) do not cross precinct boundary lines, except as provided in subsection (c) or (d); and

(4) contain, as nearly as is possible, equal population.

(k) This subsection applies to a city with an ordinance described by subsection (j). The legislative body is composed of three (3) members elected from the districts established under subsection (j) and two (2) at-large members.

(l) This subsection applies to a city with an ordinance described by subsection (j). Each voter of the city may vote for two (2) candidates for at-large membership and one (1) candidate from the district in which the voter resides. The two (2) at-large candidates receiving the most votes from the whole city and the district candidates receiving the most votes from their respective districts are elected to the legislative body.

(m) This subsection applies to a city having a population of less than seven thousand (7,000). A legislative body of such a city that has, by resolution adopted before May 7, 1991, decided to continue an election process that permits each voter of the city to vote for one (1) candidate at large and one (1) candidate from each of its four (4) council districts may hold elections using that voting arrangement. The at-large candidate and the candidate from each district receiving the most votes from the whole city are elected to the legislative body. The districts established in cities adopting such a resolution may cross precinct boundary lines.

(n) A copy of the ordinance establishing districts under this section

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1 must be filed with the circuit court clerk of the county that contains the
 2 greatest population of the city not later than thirty (30) days after the
 3 ordinance is adopted.

4 (o) If any territory in the city is not included in one (1) of the
 5 districts established under this section, the territory is included in the
 6 district that:

7 (1) is contiguous to that territory; and

8 (2) contains the least population of all districts contiguous to that
 9 territory.

10 (p) If any territory in the city is included in more than one (1) of the
 11 districts established under this section, the territory is included in the
 12 district that:

13 (1) is one (1) of the districts in which the territory is described in
 14 the ordinance adopted under this section;

15 (2) is contiguous to that territory; and

16 (3) contains the least population of all districts contiguous to that
 17 territory.

18 SECTION 36. IC 36-5-2-4.1 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) The legislative
 20 body may, by ordinance, divide the town into districts for the purpose
 21 of conducting elections of town officers.

22 (b) A town legislative body district must comply with the following
 23 standards:

24 (1) The district must be composed of contiguous territory, except
 25 for territory that is not contiguous to any other part of the town.

26 (2) The district must be reasonably compact.

27 (3) The district must contain, as nearly as is possible, equal
 28 population.

29 (4) The district may not cross a census block boundary except
 30 when following a precinct boundary line or ~~when~~ unless the
 31 ordinance specifies that the census block has no population and
 32 is not likely to ever have population.

33 (5) The district may not cross precinct lines, except as provided
 34 in subsection (c).

35 (c) The boundary of a town legislative body district established
 36 under subsection (a) may cross a precinct boundary line if:

37 (1) the legislative body provides by ordinance under section 5 of
 38 this chapter that all legislative body members are to be elected at
 39 large by the voters of the whole town; or

40 (2) the district would not otherwise contain, as nearly as is
 41 possible, equal population.

42 (d) If any territory in the town is not included in one (1) of the

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districts established under this section, the territory is included in the district that:

- (1) is contiguous to that territory; and
- (2) contains the least population of all districts contiguous to that territory.

(e) If any territory in the town is included in more than one (1) of the districts established under this section, the territory is included in the district that:

- (1) is one (1) of the districts in which the territory is described in the ordinance adopted under this section;
- (2) is contiguous to that territory; and
- (3) contains the least population of all districts contiguous to that territory.

(f) The ordinance may be appealed in the manner prescribed by IC 34-13-6. If the town is located in two (2) or more counties, the appeal may be filed in the circuit or superior court of any of those counties.

(g) This subsection does not apply to a town with an ordinance described by subsection (h). The division permitted by subsection (a) shall be made: ~~in 2002; every ten (10) years after that;~~

- (1) during the second year after a year a federal decennial census is conducted,** subject to IC 3-11-1.5-32; and
- (2) when required to assign annexed territory to a municipal legislative body district.**

The division may also be made in any other year.

(h) This subsection applies to a town having a population of less than three thousand five hundred (3,500). The town legislative body may adopt an ordinance providing that:

- (1) town legislative body districts are abolished; and
- (2) all members of the legislative body are elected at large.

(i) An ordinance described by subsection (h):

- (1) may not be adopted or repealed during a year in which a municipal election is scheduled to be conducted in the town under IC 3-10-6 or IC 3-10-7; and
- (2) is effective upon passage.

(j) A copy of the ordinance establishing districts under this section must be filed with the circuit court clerk of the county that contains the greatest population of the town not later than thirty (30) days after the ordinance is adopted.

SECTION 37. IC 36-6-6-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.5. (a) This section applies to townships in a county containing a consolidated city.

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(b) The legislative body shall adopt a resolution that divides the township into legislative body districts that:

- (1) are composed of contiguous territory;
- (2) are reasonably compact;
- (3) respect, as nearly as reasonably practicable, precinct boundary lines; and
- (4) contain, as nearly as reasonably practicable, equal population.

(c) Before a legislative body may adopt a resolution that divides a township into legislative body districts, the secretary of the legislative body shall mail a written notice to the circuit court clerk. This notice must:

- (1) state that the legislative body is considering the adoption of a resolution to divide the township into legislative body districts; and
- (2) be mailed not later than ten (10) days before the legislative body adopts the resolution.

(d) The legislative body shall make a division into legislative body districts at the following times:

~~(1) In 2001.~~

~~(2) Every ten (10) years after 2002.~~

(1) During the second year after a year a federal decennial census is conducted.

~~(3)~~ **(2)** Subject to IC 3-11-1.5-32.5, whenever the boundary of the township changes.

(e) The legislative body may make the division under this section at any time, subject to IC 3-11-1.5-32.5.

SECTION 38. An emergency is declared for this act.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1226, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 7, delete lines 5 through 26, begin a new paragraph and insert:

"SECTION 13. IC 3-8-8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 8. Removal of Name from Ballot of a Candidate for Legislative or State Offices at a General Election for Disqualification or Withdrawal

Sec. 1. (a) This chapter applies only to a candidate for election to any of the following:

- (1) A legislative office.**
- (2) A state office other than a judicial office.**

(b) This chapter applies notwithstanding any other law relating to challenges to the qualifications of a candidate to be elected at a general election.

Sec. 2. A candidate may not be challenged under this chapter if all of the following apply:

- (1) The candidate's qualification was previously challenged under this chapter or other applicable law.**
- (2) This challenge would be based on substantially the same grounds as the previous challenge to the candidate.**
- (3) The commission conducted a hearing on the challenge and made a final determination in favor of the candidate.**

Sec. 3. (a) An individual who challenges the qualification of a candidate for election to an office must be a registered voter of the election district the candidate seeks to represent.

(b) A challenge under this chapter must be filed with the election division not later than forty (40) days before the date of the general election at which a candidate to the office is to be elected.

(c) The challenger must file a sworn statement with the election division:

- (1) questioning the qualification of a candidate to seek the office; and**
- (2) setting forth the facts known to the voter concerning this question.**

Sec. 4. The commission shall do the following not later than three (3) business days after the challenger's sworn statement is filed under section 3 of this chapter:

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(1) Meet to hear the challenge.

(2) Conclude the hearing.

Sec. 5. (a) Not later than one (1) business day after concluding the hearing, the commission shall announce its determination of the matter.

(b) If the commission does not announce a determination on the matter as provided in subsection (a), the commission is considered to have:

(1) dismissed the challenge; and

(2) taken final action on the challenge.

Sec. 6. The candidate or the challenger may appeal any final action:

(1) taken by the commission; or

(2) that the commission is considered to have taken under section 5 of this chapter;

to the court of appeals for errors of law under the same terms, conditions, and standards that govern appeals in ordinary civil actions. An assignment of errors that the commission's final action is contrary to law is sufficient to present both the sufficiency of the facts found to sustain the commission's action and the sufficiency of the evidence to sustain the finding of facts upon which the commission's action was rendered.

Sec. 7. (a) Regardless of the status of a challenge before the commission or the court of appeals, on noon thirty (30) days before the general election the following apply:

(1) The challenge is terminated.

(2) The name of the challenged candidate may not be removed from the ballot.

(3) The name of another individual may not replace the name of the challenged candidate on the ballot.

(4) Any votes cast for the challenged candidate shall be canvassed, counted, and reported under the name of the challenged candidate.

(b) All of the following apply if a candidate attempts to withdraw as a candidate after noon thirty (30) days before the general election:

(1) The name of the candidate may not be removed from the ballot.

(2) The name of another individual may not replace the name of the candidate on the ballot.

(3) Any votes cast for the candidate shall be canvassed, counted, and reported under the name of the candidate.

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Sec. 8. (a) This section applies if a candidate whose name remains on the ballot under section 7 of this chapter receives the most votes in the general election among all candidates for the office.

(b) If, after the election, it is determined as provided by law that the individual was not qualified to be elected to the office, it shall be considered that:

- (1) an eligible candidate of the same political party, if any, as the ineligible candidate had been elected; and**
- (2) a vacancy in the office occurred after the election.**

(c) The vacancy in the office shall be filled as otherwise provided by law."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1226 as introduced.)

THOMAS, Chair

Committee Vote: yeas 10, nays 0.

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